

### REMARKS

The Applicants do not believe that examination of the foregoing response will result in the introduction of new matter into the present application for invention. Therefore, the Applicant requests that the foregoing response be entered and that the claims to the present application, kindly, be reconsidered.

The Final Office Action dated June 30, 2005 has been received and considered by the Applicants. Claims 1-14 are pending in the present application for invention. Claims 1-14 stand are rejected by the June 30, 2005 Final Office Action. Claim 14 is objected to due to a typographical error. The foregoing amendment to the claims has corrected this oversight.

The Examiner made the June 30, 2005 Office Action final based on the assertion that Applicants' amendment necessitated a new ground(s) of rejection. The Applicant hereby asserts the finality of the June 30, 2005 Office Action is premature. The MPEP §706.07 details when a Final Rejection is proper on second action.

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)."

The previous amendment submitted April 13, 2005 by the Applicants added new Claim 14. There were no changes made to Claims 1-13 by the amendment submitted April 13, 2005 by the Applicants. The June 30, 2005 Office Action rejects Claims 1-2, 7-9 and 14 under the provisions of 35 USC §102. There were no rejections under the provisions of 35 USC §102 prior the amendment submitted April 13, 2005 by the Applicants. The amendment submitted April 13, 2005 by the Applicants did not any of amend Claims 1-2, or 7-9. Therefore, Claims 1-2, and 7-9 define exactly the same limitations that were formerly defined by these claims prior the amendment submitted April 13, 2005 by the Applicants. Accordingly, at least pertaining to Claims 1-2, and 7-9, the holding of finality is premature.

The Office Action rejects Claims 3, 8 and 10 under the provisions of 35 U.S.C. §103(a), as being unpatentable over Pavley et al. in view Mills et al. This is a new rejection based upon a different combination from that previously used to reject these claims. Claims 3, 8 and 10 define exactly the same limitations that were formerly defined by these claims prior the amendment submitted

April 13, 2005 by the Applicants. Accordingly, at least pertaining to Claims 3, 8 and 10, the holding of finality is premature.

The Office Action rejects Claims 4, 8 and 11 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Pavley et al. in view of Yamada et al. This is a new rejection that was not necessitated by any abased upon a different combination from that previously used to reject these claims. Claims 4, 8 and 11 define exactly the same limitations that were formerly defined by these claims prior the amendment submitted April 13, 2005 by the Applicants. Accordingly, at least pertaining to Claims 4, 8 and 11, the holding of finality is premature.

The Office Action rejects Claims 5, 8 and 12 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Pavley et al. in view of Soohoo This Applicants is a new rejection that was not necessitated by any abased upon a different combination from that previously used to reject these claims. Claims 5, 18 and 12 define exactly the same limitations that were formerly defined by these claims prior the amendment submitted April 13, 2005 by the Applicants. Accordingly, at least pertaining to Claims 5, 18 and 12, the holding of finality is premature.

The Office Action rejects Claims 6, 8 and 13 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Pavley et al. in view of Kenny This Applicants is a new rejection that was not necessitated by any abased upon a different combination from that previously used to reject these claims. Claims 6, 8 and 13 define exactly the same limitations that were formerly defined by these claims prior the amendment submitted April 13, 2005 by the Applicants. Accordingly, at least pertaining to Claims 5, 18 and 12, the holding of finality is premature.

The Applicant, respectfully, requests that the Primary Examiner reconsider the holding of finality of the June 30, 2005 Office Action and withdraw the finality of the June 30, 2005 rejection.

The foregoing amendment to the claims has been made to fully respond to a Final Office Action, which finality is fully anticipated to be withdrawn because it is premature. The Applicant, therefore, reasonably anticipates an opportunity to respond to a non-final office action, which response may include the rescinding of the changes made by the foregoing amendment.

The Final Office Action rejects Claims 1-2, 4 and 6-8 under the provisions of 35 U.S.C. §101, as not defining statutory subject matter.

Regarding Claims 1-2, 4 and 6, the Examiner states these claims do not define statutory subject matter because they recite that the device is a technological device and as such do not define statutory subject matter. The Applicants, respectfully, assert that Claims 1-2, 4 and 6, define subject matter for a device for browsing including display means. Claims 1-2, 4 and 6, define a device, not a computer program, therefore the subject matter defined by Claims 1-2, 4 and 6 is clearly statutory subject matter. Therefore, this rejection is, respectfully, traversed.

Claim 7 is directed to a practical application producing a useful and tangible result. The Applicants, respectfully, assert that Claim 7 defines subject matter for a method for browsing including showing in a display area an image from an image collection. Claim 7 defines a method for browsing that defines specific subject matter to perform the claimed method. Claim 7 is clearly statutory subject matter. Therefore, this rejection is, respectfully, traversed.

Claim 8 defines a computer program product that enables a programmable device to function as the device defined in Claim 1 when executing the computer program product. Claim 8 positively recites a program that can readily be used by a machine. There are numerous mediums that can be used to store the computer program product defined by Claim 8, and this will be readily apparent to those skilled in the art. The Applicants, respectfully, point out that electronic data storage media such as disc drives and memory technology, as well as electrical signals can all be used to implement the computer program product defined by Claim 8 on a programmable device to provide to the device defined by Claim 1. Accordingly, the Applicants, respectfully, assert that Claim 8 defines subject matter that is statutory.

The Final Office Action rejects Claim 14 under the provisions of 35 U.S.C. §112, second paragraph for failing to particularly point out and distinctly claim the subject matter of the invention. The Examiner states that there is insufficient antecedent basis for the term "the representation". The foregoing amendment to the claims has corrected this oversight.

The Final Office Action rejects Claims 1-2, 7-9 and 14 under the provisions of 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,317,141 issued in the name of Pavley et al. (hereinafter referred to as Pavley et al.). The rejection asserts that Pavley et al. teach all the

element of the rejected claims including a portion that can be used to select characteristics of the representation. The Examiner states that portion 306 can be used to select media types. The Applicants, respectfully, disagree. Reference number 306 within Pavley et al. refers to icon/information area 306. The icon/information area 306 within Pavley et al. has no function related to selection. The icon/information area 306 is described by Pavley et al. is used for displaying the media type for the associated media object (see col. 8, lines 11-14). The Applicants, respectfully, point out that the embodiments discussed within Pavley et al. only disclose or suggest that icon/information area 306 provide the user with a tool for identifying groups of media objects (see col. 8, lines 41-49). There is no disclosure or suggestion within Pavley et al. for icon/information area 306 to have any function to select characteristics of the representation as defined by rejected Claims 1, 7 and 14. Therefore, this rejection is respectfully traversed.

The Applicant respectfully point out that rejected Claims 2 and 9 defines subject matter a border area functioning as the portion, and the browsing means is arranged to show, in response to a selection of a border area of a representation, representations in the sequence belonging to the same category as the representation whose border area is selected. The Examiner states that Pavley et al. disclose that border areas can function as the portion defined by the rejected claims. As discussed above, Pavley et al. make no disclosure or suggestion for a portion of an image or representation that can be used to select characteristics of that image or representation. The Examiner further states that a slide show can be created in response to selection of a border of an image. The Applicants unequivocally deny this assertion contained within the Final Office Action. There is no teaching or mentioning of any subject matter within Pavley et al. that can be construed as a slide show being created in response to selection of any portion of an image. Pavley et al. clearly describes, beginning on col. 10, line 54 of that reference, the process of grouping objects is accomplished using the "Mark" command that is not a portion of any image or representation. Therefore, this rejection is respectfully traversed.

The remaining claims under this rejection depend from and further narrow and define the previously discussed claims that are believed to be allowable. Therefore, the remaining claims under this rejection are also believed to be allowable.

The Final Office Action rejects Claims 3, 8 and 10 under the provisions of 35 U.S.C. §103(a), as being unpatentable over Pavley et al. in view of U.S. Patent No. 5,237,648 issued to Mills et al. (hereinafter referred to as Mills et al.). The Applicants respectfully assert that these claims depend from claims previously discussed above that are believed to be allowable. Claims 3, 8 and 10 depend from and further narrow and define those previously discussed claims. Therefore, Claims 3, 8 and 10 are believed to be allowable.

The Final Office Action rejects Claims 4, 8 and 11 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Pavley et al. in view of U.S. Patent No. 6,259,432 issued to Yamada et al. (hereinafter referred to as Yamada et al.). The Applicants respectfully assert that these claims depend from claims previously discussed above that are believed to be allowable. Claims 4 and 8 depend from and further narrow and define those previously discussed claims. Therefore, Claims 4 and 8 are believed to be allowable.

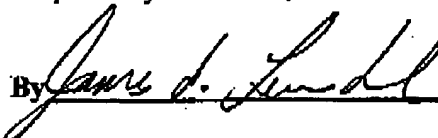
The Final Office Action rejects Claims 5, 8 and 12 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Pavley et al. in view of U.S. Patent No. 6,211,879 issued to Soohoo (hereinafter referred to as Soohoo). The Applicants respectfully assert that these claims depend from claims previously discussed above that are believed to be allowable. Claims 5, 8 and 12 depend from and further narrow and define those previously discussed claims. Therefore, Claims 5, 8 and 12 are believed to be allowable.

The Final Office Action rejects Claims 6, 8 and 13 under the provisions of 35 U.S.C. §103(a) as being unpatentable over Pavley et al. in view of U.S. Patent No. 6,437,802 issued to Kenny (hereinafter referred to as Kenny). The Applicants respectfully assert that these claims depend from claims previously discussed above that are believed to be allowable. Claims 6, 8 and 13 depend from and further narrow and define those previously discussed claims. Therefore, Claims 6, 8 and 13 are believed to be allowable.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

By 

James D. Leimbach  
Patent Attorney Reg. No. 34,374

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence  
is being transmitted on this date via  
facsimile transmission to (571) 273-8300 AND addressed to:  
Mail Stop: Amendment  
COMMISSIONER OF PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450

Date of Transmission: August 30, 2005

(Signature)

By:

  
James D. Leimbach